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9  
10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 KYLE MARTA WATKINS, R.N.  
4901 Heil Ave. Apt. 27A  
14 Huntington Beach, CA 92649

15 and

16 1048 Heil Ave. Apt. 27A  
Huntington Beach, CA 92649

17 Registered Nurse License No. 526013

18 Respondent.  
19

Case No. 2008-76

OAH No. L2007120408

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

20 **FINDINGS OF FACT**

21 1. On or about August 27, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,  
22 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs (Board), filed Accusation No. 2008-76 against Kyle Marta Watkins, R.N.  
24 (Respondent).

25 2. On or about August 30, 1996, the Board of Registered Nursing (Board)  
26 issued Registered Nurse License No. 526013 to Respondent. The Registered Nurse License was  
27 in full force and effect at all times relevant to the charges brought herein and will expire on  
28 November 30, 2009, unless renewed.

1                   3.       On or about September 20, 2007, Jennifer Familo, an employee of the  
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.  
3 2008-76, Statement to Respondent, Notice of Defense, Request for Discovery, and Government  
4 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,  
5 which was and is: 4901 Heil Avenue, Apt. 27A, Huntington Beach, CA 92649.

6                   4.       Service of the Accusation was effective as a matter of law under the  
7 provisions of Government Code section 11505, subdivision (c).

8                   5.       On or about September 30, 2008, Respondent signed and returned a Notice  
9 of Defense, requesting a hearing in this matter. In her Notice of Defense, Respondent provided  
10 the following address as her mailing address: 4901 Heil Avenue, 27A, Huntington Beach,  
11 California 92649.

12                  6.       On or about May 12, 2008, Complainant Ruth Ann Terry, M.P.H., R.N., in  
13 her official capacity as the Executive Officer of the Board, filed First Amended Accusation No.  
14 2008-76 against Kyle Marta Watkins, R.N. (Respondent) before the Board. On or about May 21,  
15 2008, Juana F. Mejia, an employee of the Department of Justice, served by Certified and First  
16 Class Mail a copy of the First Amended Accusation No. 2008-76, Statement to Respondent,  
17 Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and  
18 11507.7 to Respondent at the address she provided on her Notice of Defense and her address of  
19 record with the Board, 4901 Heil Avenue, Apt. 27A, Huntington Beach, CA 92649, as well as  
20 1048 Heil Ave., Apt. 27A, Huntington Beach, CA 92649. A copy of the First Amended  
21 Accusation is attached as Exhibit A, and is incorporated herein by reference.

22                  7.       On or about March 27, 2008, Juana F. Mejia, an employee of the  
23 Department of Justice, served by Certified and First Class Mail a copy of the Amended Notice of  
24 Hearing, and Order Granting Continuance, to Respondent at the address she provided on her  
25 Notice of Defense, 4901 Heil Ave. Apt. 27A, Huntington Beach, CA 92649 and 1048 Heil  
26 Avenue, Apt. 27A, Huntington Beach, CA 92649, and it informed her that an administrative  
27 hearing in this matter was scheduled for June 25, 2008 at 9:00 a.m. Respondent failed to appear  
28 at that hearing.

1                   8.     Government Code section 11506 states, in pertinent part:

2                   (c) The respondent shall be entitled to a hearing on the merits if the  
3                   respondent files a notice of defense, and the notice shall be deemed a specific  
4                   denial of all parts of the accusation not expressly admitted. Failure to file a notice  
5                   of defense shall constitute a waiver of respondent's right to a hearing, but the  
6                   agency in its discretion may nevertheless grant a hearing.

7                   9.     California Government Code section 11520 states, in pertinent part:

8                   (a) If the respondent either fails to file a notice of defense or to appear at  
9                   the hearing, the agency may take action based upon the respondent's express  
10                  admissions or upon other evidence and affidavits may be used as evidence without  
11                  any notice to respondent.

12                 10.     Pursuant to its authority under Government Code section 11520, the Board  
13                 finds Respondent is in default. The Board will take action without further hearing and, based on  
14                 the evidence on file herein, finds that the allegations in First Amended Accusation No. 2008-76  
15                 are true.

16                 11. The total cost for investigation and enforcement in connection with the First  
17                 Amended Accusation are \$6,156.75 as of June 24, 2008.

18   **DETERMINATION OF ISSUES**

19                 1.     Based on the foregoing findings of fact, Respondent Kyle Marta Watkins,  
20                 R.N. has subjected her Registered Nurse License No. 526013 to discipline.

21                 2.     A copy of the First Amended Accusation is attached.

22                 3.     The agency has jurisdiction to adjudicate this case by default.

23                 4.     The Board of Registered Nursing is authorized to revoke Respondent's  
24                 Registered Nurse based upon the following violations alleged in the Accusation:

25                         a.     violation of Business and Professions Code section 2761(a) and (f),  
26                         section 2762(c), and California Code of Regulations, title 16, section 1444(a), in  
27                         that on or about August 28, 2006 Respondent was convicted of two felonies and  
28                         three misdemeanors substantially related to the qualifications, functions or duties  
29                         of a registered nurse, including an offense involving the consumption of alcohol  
30                         and multiple offenses involving assaultive or abusive behavior on June 28, 2006;

31                         to wit:

1 (1) violation of Penal Code section 69, a felony, [resisting and deterring  
2 an executive officer];

3 (2) violation of Penal Code section 1302.5, a felony, [failure to appear on  
4 felony while on bail];

5 (3) violation of Penal Code section 243(b), a misdemeanor, [battery on a  
6 fire fighter];

7 (4) violation of Penal Code section 148(a)(1), a misdemeanor, [resisting  
8 and obstructing an officer]; and

9 (5) violation of Penal Code section 647(f), a misdemeanor, [public  
10 intoxication - under the influence of alcohol and Toluene, a drug];

11 b. violation of Business and Professions Code sections 2761(a) and 2762(b)  
12 in that on or about June 28, 2006, Respondent used alcoholic beverages to an extent or in  
13 an matter dangerous or injurious to herself, or other person or the public;

14 c. violation of Business and Professions Code sections 2761(a) and (f),  
15 section 2762(c), and California Code of Regulations, title 16, section 1444(a), in that on  
16 or about June 27, 2006 Respondent was convicted of two misdemeanors substantially  
17 related to the qualifications, functions or duties of a registered nurse; to wit:

18 (1) violation of Vehicle Code section 23152(a) [driving while under the  
19 influence]; and

20 (2) violation of Vehicle Code section 23152(b) [driving with a blood  
21 alcohol limit of .08% or higher]; with penalty enhancement under Vehicle  
22 Code section 23578 for having a blood alcohol limit greater than .20%;

23 d. violation of Business and Professions Code sections 2761(a) and 2762(b)  
24 in that on or about December 27, 2005, Respondent used alcoholic beverages to an extent  
25 or in an matter dangerous or injurious to herself, or other person or the public;

26 e. violation of Business and Professions Code sections 2761(a) and (f),  
27 section 2762(c), and California Code of Regulations, title 16, section 1444(a), in that on  
28 or about February 28, 2006 she was convicted of a misdemeanor substantially related to

1 the qualifications, functions or duties of a registered nurse; to wit: violation of Penal  
2 Code section 4151(l) [disturbing the peace]; and

3 f. violation of Business and Professions Code sections 2761(a) and 2762(b)  
4 in that on or about December, 7, 2005, Respondent used alcoholic beverages to an extent  
5 or in an matter dangerous or injurious to herself, or other person or the public.

6  
7 **ORDER**

8 IT IS SO ORDERED that Registered Nurse License No. 526013, heretofore  
9 issued to Respondent Kyle Marta Watkins, R.N., is revoked.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
11 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
12 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
13 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
14 statute.

15 This Decision shall become effective on October 12, 2008.

16 It is so ORDERED September 12, 2008

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18 *LaTranene N Tate*

19 FOR THE BOARD OF REGISTERED NURSING  
20 DEPARTMENT OF CONSUMER AFFAIRS

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23 DOJ docket number:SD2007800306

24 Attachment: Exhibit A: First Amended Accusation No.2008-76  
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Exhibit A

First Amended Accusation No. 2008-76

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
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8  
9 Attorneys for Complainant

10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-76

14 **KYLE MARTA WATKINS**

OAH Case No. L2007120408

15 1048 Heil Avenue, Apt. 27A  
16 Huntington Beach, CA 92649

**FIRST AMENDED  
ACCUSATION**

17 Registered Nurse License No. 526013

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H, R.N (Complainant), brings this Accusation solely  
22 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about August 30, 1996, the Board of Registered Nursing issued  
25 Registered Nurse License No. 526013 to Kyle Marta Watkins, R.N. (Respondent). The  
26 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on November 30, 2009, unless renewed.

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1 (c) Be convicted of a criminal offense involving the prescription,  
2 consumption, or self-administration of any of the substances described in  
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
4 record pertaining to, the substances described in subdivision (a) of this section, in  
5 which event the record of the conviction is conclusive evidence thereof.

#### 6 REGULATIONS

7 8. California Code of Regulations, title 16, section 1444, states:

8 A conviction or act shall be considered to be substantially related to the  
9 qualifications, functions or duties of a registered nurse if to a substantial degree it  
10 evidences the present or potential unfitness of a registered nurse to practice in a  
11 manner consistent with the public health, safety, or welfare. Such convictions or  
12 acts shall include but not be limited to the following:

13 (a) Assaultive or abusive conduct including, but not limited to,  
14 those violations listed in subdivision (d) of Penal Code Section 11160.

15 9. California Code of Regulations, title 16, section 1445, states:

16 . . . .

17 (b) When considering the suspension or revocation of a license on  
18 the grounds that a registered nurse has been convicted of a crime, the board, in  
19 evaluating the rehabilitation of such person and his/her eligibility for a license will  
20 consider the following criteria:

21 (1) Nature and severity of the act(s) or offense(s).

22 (2) Total criminal record.

23 (3) The time that has elapsed since commission of the act(s) or offense(s).

24 (4) Whether the licensee has complied with any terms of parole,  
25 probation, restitution or any other sanctions lawfully imposed against the licensee.

26 (5) If applicable, evidence of expungement proceedings pursuant to  
27 Section 1203.4 of the Penal Code.

28 (6) Evidence, if any, of rehabilitation submitted by the licensee.

#### 29 COST RECOVERY

30 10. Section 125.3 of the Code provides, in pertinent part, that the Board may  
31 request the administrative law judge to direct a licentiate found to have committed a violation or  
32 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
33 and enforcement of the case.

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1 DRUGS

2 11. The drug known as "toluene" is a substance with toxic qualities which,  
3 when inhaled or ingested causes a condition of intoxication, elation, euphoria, dizziness,  
4 stupefaction, or dulling of the senses. It is unlawful to be under the influence of toluene pursuant  
5 to Penal Code section 381 (See also Health and Safety Code sections 11999 and 11999.1).

6 FACTS IN SUPPORT OF THE FIRST AND SECOND CAUSES FOR DISCIPLINE

7 (August, 2006 Conviction for Battery, Resisting Arrest and  
8 Public Intoxication with a BAL of .22%)

9 12. On or about June 28, 2006, Officer Lektorich was dispatched to the beach  
10 area on a report of an intoxicated female. The officer met with a lifeguard who reported  
11 receiving several complaints about a female drunk on the beach. The lifeguard had observed the  
12 female entering the water and felt she might be in danger in the water. Officer Lektorich  
13 approached the female, later identified as Kyle Watkins (Respondent). While speaking with her,  
14 Officer Lektorich detected a moderate odor of alcoholic beverage on her breath. He noted that  
15 her speech was slightly slurred and that she was unsteady on her feet. He asked Respondent how  
16 much she had to drink and she stated she did not drink because she was in rehabilitation.  
17 Respondent asked the officer if she was under arrest, and he told her she was not. She asked if  
18 she could walk home, as she lived close by, and the officer agreed that she could. Officer  
19 Lektorich watched Respondent depart on foot, observing that she staggered slightly.

20 As the officer was departing the scene, he was signaled by a second lifeguard who  
21 reported that Respondent was back on the beach. Officer Lektorich arrived at Respondent's  
22 location and observed her staggering into the water. He requested the assistance of lifeguards to  
23 help him get Respondent out of the water. Respondent came out of the water and was directed to  
24 sit in her beach chair. While Officer Lektorich spoke to Respondent, she kept trying to stand up  
25 and the officer ordered her to sit. She stood up again and stated that she was leaving. Officer  
26 Lektorich determined that Respondent was unable to care for herself or others and arrested her.

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1           Officer Green arrived to assist in the arrest. Respondent was refusing to stand up  
2 and ultimately had to be carried to the patrol vehicle, where she refused to take a sitting position.  
3 While laying on the floor of the patrol vehicle, she asked Officer Green to adjust her glasses and  
4 when he attempted to do so she kicked him in the chest. Upon arrival at the jail, Respondent  
5 refused to exit the patrol vehicle. After getting her to the booking area, she refused to sit down  
6 and kneed another officer in the thigh. The Officers decided to transport her to the Orange  
7 County Jail. She refused to walk back to the vehicle or to sit properly in it. While attempts were  
8 being made to sit her upright in the vehicle, Respondent started screaming that she could not  
9 breathe and that she was having a heart attack and a stroke. Fire Department personnel were  
10 called. Respondent was removed from the vehicle and her handcuffs were also removed.  
11 Respondent was uncooperative and would not remain still for an examination by paramedics, so  
12 the fire captain took her hand to try to control her. Respondent bit his hand. Respondent was  
13 placed in a belly chain and leg restraints, tied to a gurney and transported to the emergency room.  
14 The medical release stated that Respondent had no signs of a heart attack or other illness, and  
15 that she had a .22 % blood alcohol level.

16           After criminal charges were filed against Respondent for her behavior, she failed  
17 to appear as ordered by the court on August 4, 2006, leading to a felony charge of failure to  
18 appear while on bail.

19           On or about August 29, 2006, in a criminal proceeding entitled *People v. Kyle*  
20 *Marta Watkins*, Orange County Superior Court Case No. 06HF1218, Respondent pled guilty to  
21 five counts of criminal conduct: a felony violation of Penal Code section 69 (resisting and  
22 deterring an executive officer); a felony violation of Penal Code section 1320.5 (failure to appear  
23 on felony while on bail); a misdemeanor violation of Penal Code section 243(b) (battery on a  
24 firefighter); a misdemeanor violation of Penal Code section 148(a)(1) (resisting and obstructing  
25 an officer); and a misdemeanor violation of section 647(f) (public intoxication under the  
26 influence of alcohol and a drug, toluene).

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1 As a result of the convictions, Respondent was sentenced to 3 years formal  
2 probation and ordered to serve 180 days in the county jail (with credit for time served), to pay  
3 fines and restitution, not to use unauthorized drugs, not to consume alcoholic beverages, and to  
4 obey other terms and conditions of probation. She was given the opportunity to complete a 6-  
5 month alcohol residential recovery program in lieu of serving the balance of her sentence.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct - Substantially Related Criminal Convictions)**

8 13. Complainant herein incorporates by reference paragraphs 1 through 12.  
9 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and (f),  
10 2762(c), and California Code of Regulations, title 16, section 1444(a), in that she was convicted  
11 of two felonies and 3 misdemeanors substantially related to the qualifications, functions or duties  
12 of a registered nurse, including an offense involving the consumption of alcohol and multiple  
13 offenses involving assaultive or abusive behavior, as described in paragraph 12.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Use of Alcohol in Dangerous or Injurious Manner)**

16 14. Complainant herein incorporates by reference paragraphs 1 through 12.  
17 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and  
18 2762(b), in that she used alcoholic beverages to an extent or in a manner dangerous or injurious  
19 to herself, any other person, or the public, as described in paragraph 12.

20 **FACTS IN SUPPORT OF THE THIRD AND FOURTH CAUSES FOR DISCIPLINE**

21 **(June, 2006 Conviction for Drunk Driving with a BAL of .27%)**

22 15. On or about December 27, 2005, Officer Moten was dispatched to  
23 investigate a citizen's report of a driver under the influence. He arrived and interviewed the  
24 citizen witness, who related that at approximately 5:30 p.m., he observed a female, whom he  
25 identified as Respondent Watkins, staggering toward her vehicle while carrying a bottle of wine.  
26 The citizen approached Respondent in an attempt to convince her not to drive, but she told him  
27 to leave her alone and she drove away in the vehicle, a silver Toyota. The citizen smelled the  
28 odor of alcohol on Respondent. The citizen reported that, approximately 45 minutes later, he

1 heard a crashing sound and saw Respondent driving her vehicle in reverse and crashing into a  
2 telephone pole, then pulling forward and striking the telephone pole again. The citizen then  
3 observed Respondent drive the vehicle away out of his view. Subsequently, the citizen observed  
4 Respondent walking into a residence with a male who had exited the residence to assist her.

5           Officer Moten, accompanied by Officer Alfaro, went to the residence into which  
6 Respondent was seen entering. Upon contact with Respondent, Officer Alfaro observed that  
7 Respondent smelled of alcohol, her eyes were bloodshot and watery, and her speech was very  
8 slurred. Respondent denied she had been drinking or driving her vehicle. Officer Alfaro  
9 conducted Field Sobriety Tests, and determined that Respondent had been driving under the  
10 influence. Officer Alfaro arrested Respondent. Respondent consented to a blood test, the results  
11 of which showed she had a .27% BAL.

12           On or about June 27, 2006, in a criminal proceeding entitled *People v. Kyle Marta*  
13 *Watkins*, Orange County Superior Court Case No. 06CM01171, Respondent pled guilty to  
14 violating Vehicle Code section of 23152(a) (driving under the influence), and Vehicle Code  
15 section 23152(b) (driving with a BAL of .08% or higher), both misdemeanors, with a penalty  
16 enhancement pursuant to Vehicle Code section 23578, for having a BAL of more than .20%.

17           As a result of this conviction, Respondent was sentenced to 3 years informal  
18 probation and ordered to pay fees, fines and restitution, not to drive a motor vehicle with any  
19 measurable amount of alcohol or drugs in her blood, to attend and complete a 9-month level 2  
20 first offender alcohol program, and to attend and complete a MADD Victim's Impact Panel.

21           On September 9, 2006, Respondent was held in violation of her probation for  
22 failure to pay the fees, fines and restitution ordered, and for failure to enroll in either the first  
23 offender alcohol program or in the MADD program. Respondent was then ordered to attend and  
24 complete the Salvation Army program in addition to the first offender and the MADD programs.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Substantially Related Criminal Convictions)**

3 16. Complainant herein incorporates by reference paragraphs 1 through 15.  
4 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and (f),  
5 and 2762(c), in that she was convicted of 2 misdemeanors substantially related to the  
6 qualifications, functions or duties of a registered nurse, as described in paragraph 15.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Use of Alcohol in Dangerous or Injurious Manner)**

9 17. Complainant herein incorporates by reference paragraphs 1 through 15.  
10 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and  
11 2762(b), in that she used alcoholic beverages to an extent or in a manner dangerous or injurious  
12 to herself, any other person, or the public, as described in paragraph 15.

13 **FACTS IN SUPPORT OF THE FIFTH AND SIXTH CAUSES FOR DISCIPLINE**

14 **(February, 2005 Conviction for Disturbing the Peace/Fighting)**

15 18. On or about December 7, 2005, Respondent was arrested and charged with  
16 violating Penal Code section 240 (assault), Penal Code section 242 (battery), and Penal Code  
17 section 415(1) (disturbing the peace/fighting).

18 On or about February 28, 2006, in a criminal proceeding entitled *People v. Kyle*  
19 *Marta Watkins*, Orange County Superior Court Case No. 05CM10667, Respondent pled guilty to  
20 violating Penal Code section 415(1) (disturbing the peace/fighting).

21 As a result of this conviction, Respondent was sentenced to 1 year informal  
22 probation, and she was ordered to attend AA meetings and to pay a fine into a victim/witness  
23 emergency fund.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Substantially Related Criminal Conviction)**

26 19. Complainant herein incorporates by reference paragraphs 1 through 18.  
27 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and (f)  
28 and California Code of Regulations, title 16, section 1444(a), in that she was convicted of a

1 misdemeanor substantially related to the qualifications, functions or duties of a registered nurse,  
2 including an offense involving assaultive or abusive behavior, as described in paragraph 18.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Use of Alcohol in Dangerous or Injurious Manner)**


5 20. Complainant herein incorporates by reference paragraphs 1 through 18.  
6 Respondent has subjected her license to disciplinary action under Code sections 2761(a) and  
7 2762(b), in that she used alcoholic beverages to an extent or in a manner dangerous or injurious  
8 to herself, any other person, or the public, as described in paragraph 18.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License No. 526013 issued to  
13 Kyle Marta Watkins;
- 14 2. Ordering Kyle Marta Watkins to pay the Board of Registered Nursing the  
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
16 Professions Code section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: 5/18/08

20  
21  
22   
23 RUTH ANN TERRY, M.P.H., R.N.  
24 Executive Officer  
25 Board of Registered Nursing  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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